

less serious illnesses. These procedures also reflect the recognition that the benefits of the drug need to be evaluated in light of the severity of the disease being treated. The procedure outlined in this section should be interpreted consistent with that purpose.

#### § 312.81 Scope.

This section applies to new drug and biological products that are being studied for their safety and effectiveness in treating life-threatening or severely-debilitating diseases.

(a) For purposes of this section, the term “life-threatening” means:

(1) Diseases or conditions where the likelihood of death is high unless the course of the disease is interrupted; and

(2) Diseases or conditions with potentially fatal outcomes, where the end point of clinical trial analysis is survival.

(b) For purposes of this section, the term “severely debilitating” means diseases or conditions that cause major irreversible morbidity.

(c) Sponsors are encouraged to consult with FDA on the applicability of these procedures to specific products.

[53 FR 41523, Oct. 21, 1988, as amended at 64 FR 401, Jan. 5, 1999]

#### § 312.82 Early consultation.

For products intended to treat life-threatening or severely-debilitating illnesses, sponsors may request to meet with FDA-reviewing officials early in the drug development process to review and reach agreement on the design of necessary preclinical and clinical studies. Where appropriate, FDA will invite to such meetings one or more outside expert scientific consultants or advisory committee members. To the extent FDA resources permit, agency reviewing officials will honor requests for such meetings

(a) *Pre-investigational new drug (IND) meetings.* Prior to the submission of the initial IND, the sponsor may request a meeting with FDA-reviewing officials. The primary purpose of this meeting is to review and reach agreement on the design of animal studies needed to initiate human testing. The meeting may also provide an opportunity for discussing the scope and design of phase 1

testing, plans for studying the drug product in pediatric populations, and the best approach for presentation and formatting of data in the IND.

(b) *End-of-phase 1 meetings.* When data from phase 1 clinical testing are available, the sponsor may again request a meeting with FDA-reviewing officials. The primary purpose of this meeting is to review and reach agreement on the design of phase 2 controlled clinical trials, with the goal that such testing will be adequate to provide sufficient data on the drug’s safety and effectiveness to support a decision on its approvability for marketing, and to discuss the need for, as well as the design and timing of, studies of the drug in pediatric patients. For drugs for life-threatening diseases, FDA will provide its best judgment, at that time, whether pediatric studies will be required and whether their submission will be deferred until after approval. The procedures outlined in § 312.47(b)(1) with respect to end-of-phase 2 conferences, including documentation of agreements reached, would also be used for end-of-phase 1 meetings.

[53 FR 41523, Oct. 21, 1988, as amended at 63 FR 66669, Dec. 2, 1998]

#### § 312.83 Treatment protocols.

If the preliminary analysis of phase 2 test results appears promising, FDA may ask the sponsor to submit a treatment protocol to be reviewed under the procedures and criteria listed in §§ 312.305 and 312.320. Such a treatment protocol, if requested and granted, would normally remain in effect while the complete data necessary for a marketing application are being assembled by the sponsor and reviewed by FDA (unless grounds exist for clinical hold of ongoing protocols, as provided in § 312.42(b)(3)(ii)).

[53 FR 41523, Oct. 21, 1988, as amended at 76 FR 13880, Mar. 15, 2011]

#### § 312.84 Risk-benefit analysis in review of marketing applications for drugs to treat life-threatening and severely-debilitating illnesses.

(a) FDA’s application of the statutory standards for marketing approval shall recognize the need for a medical risk-benefit judgment in making the final decision on approvability. As part